

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

\* \* \* \* \*

D.B., a minora minor, by and  
through his mother and  
natural guardian, A.T.,

Plaintiff,

vs.

ORDER ADOPTING  
REPORT AND RECOMMENDATION

NICKOLAS HARGETT, in his  
individual capacity and in his  
official capacity as an employee  
of Independent School District 31;  
and INDEPENDENT SCHOOL  
DISTRICT 31,

Defendants.

Civ. No. 13-2781 (MJD/LIB)

\* \* \* \* \*

Based upon the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois, and after an independent review of the files, records and proceedings in the above-titled matter, **IT IS ORDERED:**

1. That Plaintiff's 42 U.S.C. § 1983 claim in Count I of Plaintiff's Complaint against Defendant Hargett in his official capacity is **DISMISSED with prejudice**.
2. Plaintiff's Monell claim in Count III of Plaintiff's Complaint against Defendant School District is **DISMISSED without prejudice**.

3. Defendant School District's motion to dismiss Count VII of Plaintiff's Complaint alleging vicarious liability against Defendant School District for state law torts committed by its employee, Defendant Hargett, is **DENIED without prejudice**.

DATED: April 7, 2014  
At Minneapolis, Minnesota

s/Michael J. Davis  
Michael J. Davis, Chief Judge  
United States District Court